

February 9, 2006

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 9th day of February 2006, at 8:00 P.M., and there were

PRESENT: JOHN ABRAHAM, JR., MEMBER
 WILLIAM MARYNIEWSKI, MEMBER
 JAMES PERRY, MEMBER
 ARLIE SCHWAN, MEMBER
 ROBERT THILL, MEMBER
 JEFFREY LEHRBACH, CHAIRMAN

ABSENT: RICHARD QUINN, MEMBER

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK
 JOHN DUDZIAK, DEPUTY TOWN ATTORNEY
 JEFFREY H. SIMME, BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

PETITION OF REALTY USA:

THE CASE TO BE HEARD BY THE ZONING Board of Appeals was that of the petition of Realty USA, Merle Whitehead, owner, 6505 East Quaker Street, Orchard Park, New York 14127 for one [1] variance for the purpose of erecting a pole sign on premises owned by Merle Whitehead at 4909 Transit Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 30F.(2)(c)[3][e] of the Code of the Town of Lancaster. The total face area of the proposed pole sign is fifty [50] square feet.

Chapter 50, Zoning, Section 30F.(2)(c)[3][e] of the Code of the Town of Lancaster limits the total face area of a pole sign on the premises to thirty two [32] square feet. The petitioner, therefore, requests an eighteen [18] square foot variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Planning of the time and place of this public hearing.

Copy of a letter notifying the New York State Department of Transportation and the Cheektowaga Town Clerk of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Jim Popiela, representative for petitioner Advision, Inc. 60 Anderson Road Cheektowaga, New York 14225	Proponent
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Merle Whitehead III, representing the petitioner 910 Maple Road Williamsville, New York 14221	Proponent
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IN THE MATTER OF THE PETITION OF REALTY USA

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. MARYNIEWSKI
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Realty USA and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 9th day of February 2006, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue.

That the requested area variance relief is substantial, however, having found no alternatives, the board feels that the petitioner should be precluded from obtaining the variance.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is hereby
GRANTED.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	WAS ABSENT
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

February 9, 2006

THE FOLLOWING MOTION WAS MADE BY
MR. THILL AND SECONDED BY MR. SCHWAN
TO WIT:

WHEREAS, the Zoning Board of Appeals held a public hearing before it on the 8th day of September 2005 upon the petition of 81 & 3 of Florida Inc., and

WHEREAS, the Clerk to the Zoning Board of Appeals appeared and circulated to the Zoning Board Members minutes of that meeting, and

WHEREAS, Zoning Board Member Thill has brought to the attention of the Zoning Board Members and the Town Clerk an accidental word processing error reproduced in the minutes, and

WHEREAS, the error indicates that the Zoning Board of Appeals adopted findings at this meeting in the matter of 81 & 3 of Florida Inc., which it did not, and

WHEREAS, the Clerk to the Zoning Board of Appeals acknowledges the accidental inclusion of data in the minutes caused by this word processing error and concurs with purging of this data from the minutes.

NOW THEREFORE, BE IT

RESOLVED that page 78 of the minutes of the meeting of the Zoning Board of Appeals held on September 8, 2005 be amended as follows:

Page - 78- Delete the following:

“Whereas, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a General Business District, (GB) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the General Business District, (GB) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the Erie County Division of Planning commented on the proposed zoning action in its’ communications to the Town Clerk on September 6, 2005 and September 8, 2005. Copies of the communications have been provided to each Zoning Board of Appeals member, the Town Building Inspector and the Town Attorney. The original communications are on file with the Town Clerk.”, and

BE IT FURTHER

RESOLVED, that the Clerk to the Zoning Board of Appeals endorse upon page 78 of the minutes of the meeting of the Zoning Board of Appeals held on September 8, 2005 a notation that certain highlighted or referenced data on that page has been purged by a correction of the minutes pursuant to a motion adopted by the Zoning Board of Appeals on February 9, 2006.

Discussion ensued.

The motion was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
* MR. PERRY	ABSTAINED
MR. QUINN	WAS ABSENT
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED NO

MOTION CARRIED

*Mr. Perry abstained because he was not present at the meeting of September 8, 2005.

ON MOTION DULY MADE, SECONDED AND CARRIED , the meeting was
adjourned at 9:00 P.M.

Signed _____
Johanna M. Coleman, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: February 9, 2006